



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/483,175	01/13/2000	Chun R. Xia	BRIGP001	8040

21912 7590 12/31/2002

RITTER VAN PELT & YI, L.L.P.  
4906 EL CAMINO REAL  
SUITE 205  
LOS ALTOS, CA 94022

EXAMINER

HONG, STEPHEN S

ART UNIT	PAPER NUMBER
2178	

DATE MAILED: 12/31/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. <b>09/483,175</b>	Applicant(s) <b>Xia</b>	<i>[Signature]</i>
	Examiner <b>Stephen Hong</b>	Art Unit <b>2178</b>	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)  Responsive to communication(s) filed on Oct 1, 2002

2a)  This action is FINAL.      2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

**Disposition of Claims**

4)  Claim(s) 1-25 is/are pending in the application.

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-25 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)

4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)

5)  Notice of Informal Patent Application (PTO-152)

3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

6)  Other: \_\_\_\_\_

Art Unit: 2178

### **Part III DETAILED ACTION**

1. This action is responsive to communications: amendment filed on October 1, 2002 to the application, filed on January 13, 2000
2. Claims 1-25 are pending in the case. Claims 1, 21, 23 and 24 are independent claims.
3. The rejection of claims 1-21 and 23-24 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention has been withdrawn in view of the amendment.

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in-

- (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
- (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Art Unit: 2178

5. Claims 1-9, 13-17, 21 and 23-25 remain rejected under 35 U.S.C. 102(e) as being anticipated by GEVER et al., U.S. Pat. No. 6,313,835 B1, the rejection of which is provided in the previous Office Action, Paper #12, mailed on July 3, 20002 and is fully incorporated herein.

*Claim Rejections - 35 USC § 103*

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103<sup>®</sup> and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 12 and 19 remain rejected under 35 U.S.C. 103(a) as being unpatentable over GEVER et al., the rejection of which is provided in the previous Office Action, Paper #12, mailed on July 3, 20002 and is fully incorporated herein.

8. Claims 18 and 20 remain rejected under 35 U.S.C. 103(a) as being unpatentable over GEVER et al in view of TOBIN, U.S. Pat. No. 6,141,666 A, the rejection of which is provided in the previous Office Action, Paper #12, mailed on July 3, 20002 and is fully incorporated herein.

Art Unit: 2178

9.         Claims 10-11 and 20 remain rejected under 35 U.S.C. 103(a) as being unpatentable over GEVER et al in view of HENSON, U.S. Pat. No. 6,167,383 B1, the rejection of which is provided in the previous Office Action, Paper #12, mailed on July 3, 20002 and is fully incorporated herein.
10.        Claim 22 remains rejected under 35 U.S.C. 103(a) as being unpatentable over PECKOVER, U.S. Pat. No. 6,119,101 A in view GEVER et al, the rejection of which is provided in the previous Office Action, Paper #12, mailed on July 3, 20002 and is fully incorporated herein.

*Response to Arguments*

11.        Applicant's arguments filed on October 1, 2002 have been fully considered but they are not persuasive.

In arguing the rejection of claims 1-25 under 35 USC 102(e) and 35 USC 103(a), Applicant asserts that GEVER et al. reference fails to teach the claimed features. Specifically, on page 5, of the amendment, Applicant argues that:

Gever et al. makes no mention of associating a non graphical attribute with the marketing object container. Gever et al. therefore fails to teach each and every one of the recited elements of amended independent claim 1, and this failure precludes Gever et al. from anticipating amended independent claim 1.

Art Unit: 2178

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "associating a non graphical attribute") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In fact, as Applicant concedes on page 5, Gever et al. discloses associating a graphical attribute to the marketing object container. Therefore, the prior art fully anticipates at least the claimed invention.

### ***Conclusion***

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 2178

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steve Hong whose telephone number is (703) 308-5465. The examiner can normally be reached on Monday-Friday from 8:00 AM-5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Herndon, can be reached on (703) 308-5186.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

After-final	(703) 746-7238
Official	(703) 746-7239
Non-Official/Draft	(703) 746-7240

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).



Stephen Hong

Primary Examiner

December 26, 2002